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HOUSE BILL 111

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Dennis J. Roch

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; REMOVING REFERENCES TO "ADEQUATE YEARLY PROGRESS" AND MAKING TECHNICAL CHANGES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 22-1-1.2 NMSA 1978 (being Laws 2003, Chapter 153, Section 2, as amended by Laws 2007, Chapter 307, Section 1 and by Laws 2007, Chapter 308, Section 1) is amended to read:

"22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is

1 the fundamental goal.

2 B. The legislature finds further that the key to  
3 student success in New Mexico is to have a multicultural  
4 education system that:

5 (1) attracts and retains quality and diverse  
6 teachers to teach New Mexico's multicultural student  
7 population;

8 (2) holds teachers, students, schools, school  
9 districts and the state accountable;

10 (3) integrates the cultural strengths of its  
11 diverse student population into the curriculum with high  
12 expectations for all students;

13 (4) recognizes that cultural diversity in the  
14 state presents special challenges for policymakers,  
15 administrators, teachers and students;

16 (5) provides students with a rigorous and  
17 relevant high school curriculum that prepares them to succeed  
18 in college and the workplace; and

19 (6) elevates the importance of public  
20 education in the state by clarifying the governance structure  
21 at different levels.

22 C. The legislature finds further that the teacher  
23 shortage in this country has affected the ability of New Mexico  
24 to compete for the best teachers and that, unless the state and  
25 school districts find ways to mentor beginning teachers,

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1 intervene with teachers while they still show promise, improve  
2 the job satisfaction of quality teachers and elevate the  
3 teaching profession by shifting to a professional educator  
4 licensing and salary system, public schools will be unable to  
5 recruit and retain the highest quality teachers in the teaching  
6 profession in New Mexico.

7 D. The legislature finds further that a well-  
8 designed, well-implemented and well-maintained assessment and  
9 accountability system is the linchpin of public school reform  
10 and must ensure that:

11 (1) students who do not meet or exceed  
12 expectations will be given individual attention and assistance  
13 through extended learning programs and individualized tutoring;

14 (2) students have accurate, useful information  
15 about their options and the adequacy of their preparation for  
16 post-secondary education, training or employment in order to  
17 set and achieve high goals;

18 (3) teachers who do not meet performance  
19 standards must improve their skills or they will not continue  
20 to be employed as teachers;

21 (4) public schools make ~~[adequate yearly]~~  
22 progress toward educational excellence; and

23 (5) school districts and the state are  
24 prepared to actively intervene and improve failing public  
25 schools.

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1           E. The legislature finds further that improving  
2 children's reading and writing abilities and literacy  
3 throughout their years in school must remain a priority of the  
4 state.

5           F. The legislature finds further that the public  
6 school governance structure needs to change to provide  
7 accountability from the bottom up instead of from the top down.  
8 Each school principal, with the help of school councils made up  
9 of parents and teachers, must be the instructional leader in  
10 the public school, motivating and holding accountable both  
11 teachers and students. Each local superintendent must function  
12 as the school district's chief executive officer and have  
13 responsibility for the day-to-day operations of the school  
14 district, including personnel and student disciplinary  
15 decisions.

16           G. It is the purpose of the 2003 public school  
17 reform legislation as augmented by this 2007 legislation to  
18 provide the framework to implement the legislative findings to  
19 ensure student success in New Mexico."

20           **SECTION 2.** Section 22-1-2 NMSA 1978 (being Laws 2003,  
21 Chapter 153, Section 3, as amended) is amended to read:

22           "22-1-2. DEFINITIONS.--As used in the Public School Code:

23           A. "academic proficiency" means mastery of the  
24 subject-matter knowledge and skills specified in state academic  
25 content and performance standards for a student's grade level;

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1           ~~[B. "adequate yearly progress" means the measure~~  
2 ~~adopted by the department based on federal requirements to~~  
3 ~~assess the progress that a public school or school district or~~  
4 ~~the state makes toward improving student achievement;~~

5           ~~G.]~~ B. "commission" means the public education  
6 commission;

7           ~~[D.]~~ C. "department" means the public education  
8 department;

9           ~~[E.]~~ D. "home school" means the operation by the  
10 parent of a school-age person of a home study program of  
11 instruction that provides a basic academic educational program,  
12 including reading, language arts, mathematics, social studies  
13 and science;

14           ~~[F.]~~ E. "instructional support provider" means a  
15 person who is employed to support the instructional program of  
16 a school district, including educational assistant, school  
17 counselor, social worker, school nurse, speech-language  
18 pathologist, psychologist, physical therapist, occupational  
19 therapist, recreational therapist, marriage and family  
20 therapist, interpreter for the deaf and diagnostician;

21           ~~[G.]~~ F. "licensed school employee" means teachers,  
22 school administrators and instructional support providers;

23           ~~[H.]~~ G. "local school board" means the policy-  
24 setting body of a school district;

25           ~~[I.]~~ H. "local superintendent" means the chief

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1 executive officer of a school district;

2 [J-] I. "parent" includes a guardian or other  
3 person having custody and control of a school-age person;

4 [K-] J. "private school" means a school, other than  
5 a home school, that offers on-site programs of instruction and  
6 that is not under the control, supervision or management of a  
7 local school board;

8 [L-] K. "public school" means that part of a school  
9 district that is a single attendance center in which  
10 instruction is offered by one or more teachers and is  
11 discernible as a building or group of buildings generally  
12 recognized as either an elementary, middle, junior high or high  
13 school or any combination of those and includes a charter  
14 school;

15 [M-] L. "school" means a supervised program of  
16 instruction designed to educate a student in a particular  
17 place, manner and subject area;

18 [N-] M. "school administrator" means a person  
19 licensed to administer in a school district and includes school  
20 principals and central district administrators;

21 [O-] N. "school-age person" means a person who is  
22 at least five years of age prior to 12:01 a.m. on September 1  
23 of the school year and who has not received a high school  
24 diploma or its equivalent. A maximum age of twenty-one shall  
25 be used for a person who is classified as special education

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1 membership as defined in Section 22-8-21 NMSA 1978 or as a  
2 resident of a state institution;

3 ~~[P.]~~ Q. "school building" means a public school, an  
4 administration building and related school structures or  
5 facilities, including teacher housing, that is owned, acquired  
6 or constructed by the school district as necessary to carry out  
7 the functions of the school district;

8 ~~[Q.]~~ P. "school bus private owner" means a person,  
9 other than a school district, the department, the state or any  
10 other political subdivision of the state, that owns a school  
11 bus;

12 ~~[R.]~~ Q. "school district" means an area of land  
13 established as a political subdivision of the state for the  
14 administration of public schools and segregated geographically  
15 for taxation and bonding purposes;

16 ~~[S.]~~ R. "school employee" includes licensed and  
17 nonlicensed employees of a school district;

18 ~~[T.]~~ S. "school principal" means the chief  
19 instructional leader and administrative head of a public  
20 school;

21 ~~[U.]~~ T. "school year" means the total number of  
22 contract days offered by public schools in a school district  
23 during a period of twelve consecutive months;

24 ~~[V.]~~ U. "secretary" means the secretary of public  
25 education;

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1           ~~[W.]~~ V. "state agency" or "state institution" means  
2 the New Mexico military institute, New Mexico school for the  
3 blind and visually impaired, New Mexico school for the deaf,  
4 New Mexico boys' school, girls' welfare home, New Mexico youth  
5 diagnostic and development center, Sequoyah adolescent  
6 treatment center, Carrie Tingley crippled children's hospital,  
7 New Mexico behavioral health institute at Las Vegas and any  
8 other state agency responsible for educating resident children;

9           ~~[X.]~~ W. "state educational institution" means an  
10 institution enumerated in Article 12, Section 11 of the  
11 constitution of New Mexico;

12           ~~[Y.]~~ X. "substitute teacher" means a person who  
13 holds a certificate to substitute for a teacher in the  
14 classroom;

15           ~~[Z.]~~ Y. "teacher" means a person who holds a level  
16 one, two or three-A license and whose primary duty is classroom  
17 instruction or the supervision, below the school principal  
18 level, of an instructional program or whose duties include  
19 curriculum development, peer intervention, peer coaching or  
20 mentoring or serving as a resource teacher for other teachers;

21           ~~[AA.]~~ Z. "certified school instructor" means a  
22 teacher or instructional support provider; and

23           ~~[BB.]~~ AA. "certified school employee" or "certified  
24 school personnel" means a licensed school employee."

25           **SECTION 3.** Section 22-1-4 NMSA 1978 (being Laws 1975,  
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1 Chapter 338, Section 1, as amended) is amended to read:

2 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND  
3 ENROLLING--OPEN ENROLLMENT.--

4 A. Except as provided by Section 24-5-2 NMSA 1978,  
5 a free public school education shall be available to any  
6 school-age person who is a resident of this state and has not  
7 received a high school diploma or its equivalent.

8 B. A free public school education in those courses  
9 already offered to persons pursuant to the provisions of  
10 Subsection A of this section shall be available to any person  
11 who is a resident of this state and has received a high school  
12 diploma or its equivalent if there is available space in such  
13 courses.

14 C. Any person entitled to a free public school  
15 education pursuant to the provisions of this section may enroll  
16 or re-enroll in a public school at any time and, unless  
17 required to attend school pursuant to the Compulsory School  
18 Attendance Law, may withdraw from a public school at any time.

19 D. In adopting and promulgating rules concerning  
20 the enrollment of students transferring from a home school or  
21 private school to the public schools, the local school board  
22 shall provide that the grade level at which the transferring  
23 student is placed is appropriate to the age of the student or  
24 to the student's score on a student achievement test  
25 administered according to the statewide assessment and

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1 accountability system.

2 E. A local school board shall adopt and promulgate  
3 rules governing enrollment and re-enrollment at public schools  
4 other than charter schools within the school district. These  
5 rules shall include:

6 (1) definition of the school district boundary  
7 and the boundaries of attendance areas for each public school;

8 (2) for each public school, definition of the  
9 boundaries of areas outside the school district boundary or  
10 within the school district but outside the public school's  
11 attendance area and within a distance of the public school that  
12 would not be served by a school bus route as determined  
13 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas  
14 shall be designated as "walk zones";

15 (3) priorities for enrollment of students as  
16 follows:

17 (a) first, students residing within the  
18 school district and within the attendance area of a public  
19 school and students who had resided in the attendance area  
20 prior to a parent who is an active duty member of the armed  
21 forces of the United States or member of the national guard  
22 being deployed and whose deployment has required the student to  
23 relocate outside the attendance area for custodial care;

24 (b) second, students enrolled in a  
25 school [~~ranked as a school that needs improvement or a school~~

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1 ~~subject to corrective action]~~ rated as "F" for two of the prior  
2 four years pursuant to the A-B-C-D-F School Ratings Act;

3 (c) third, students who previously  
4 attended the public school; and

5 (d) fourth, all other applicants;

6 (4) establishment of maximum allowable class  
7 size if smaller than that permitted by law; and

8 (5) rules pertaining to grounds for denial of  
9 enrollment or re-enrollment at schools within the school  
10 district and the school district's hearing and appeals process  
11 for such a denial. Grounds for denial of enrollment or re-  
12 enrollment shall be limited to:

13 (a) a student's expulsion from any  
14 school district or private school in this state or any other  
15 state during the preceding twelve months; or

16 (b) a student's behavior in another  
17 school district or private school in this state or any other  
18 state during the preceding twelve months that is detrimental to  
19 the welfare or safety of other students or school employees.

20 F. In adopting and promulgating rules governing  
21 enrollment and re-enrollment at public schools other than  
22 charter schools within the school district, a local school  
23 board may establish additional enrollment preferences for rules  
24 admitting students in accordance with the third and fourth  
25 priorities of enrollment set forth in Subparagraphs (c) and (d)

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1 of Paragraph (3) of Subsection E of this section. The  
2 additional enrollment preferences may include:

- 3 (1) after-school child care for students;
- 4 (2) child care for siblings of students  
5 attending the public school;
- 6 (3) children of employees employed at the  
7 public school;
- 8 (4) extreme hardship;
- 9 (5) location of a student's previous school;
- 10 (6) siblings of students already attending the  
11 public school; and
- 12 (7) student safety.

13 G. As long as the maximum allowable class size  
14 established by law or by rule of a local school board,  
15 whichever is lower, is not met or exceeded in a public school  
16 by enrollment of first- and second-priority persons, the public  
17 school shall enroll other persons applying in the priorities  
18 stated in the school district rules adopted pursuant to  
19 Subsections E and F of this section. If the maximum would be  
20 exceeded by enrollment of an applicant in the second through  
21 fourth priority, the public school shall establish a waiting  
22 list. As classroom space becomes available, persons highest on  
23 the waiting list within the highest priority on the list shall  
24 be notified and given the opportunity to enroll."

25 SECTION 4. A new section of the Assessment and

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1 Accountability Act is enacted to read:

2 "[NEW MATERIAL] REPORTING RECOMMENDED CHANGES TO LAWS.--By  
3 the end of the 2014 calendar year and each calendar year  
4 thereafter, the department shall report to the legislative  
5 education study committee the department's recommendations for  
6 proposed changes to laws to comport with any applicable federal  
7 requirements."

8 SECTION 5. Section 22-2C-3 NMSA 1978 (being Laws 2003,  
9 Chapter 153, Section 12) is amended to read:

10 "22-2C-3. ACADEMIC CONTENT AND PERFORMANCE STANDARDS--  
11 [~~STATE BOARD~~] DEPARTMENT POWERS AND DUTIES.--

12 A. The [~~state board~~] department shall adopt  
13 academic content and performance standards for grades one  
14 through twelve in the following areas:

- 15 (1) mathematics;
- 16 (2) reading and language arts;
- 17 (3) science; and
- 18 (4) social studies.

19 B. The [~~state board~~] department may adopt content  
20 and performance standards in other subject areas.

21 C. Academic content and performance standards shall  
22 be sufficiently academically challenging to meet or exceed any  
23 applicable federal requirements.

24 D. The department shall measure the performance of  
25 every public school in New Mexico. [~~Public schools achieving~~

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1 ~~the greatest improvement in adequate yearly progress shall be~~  
2 ~~eligible for supplemental incentive funding. The state board~~  
3 ~~shall establish the corrective actions and interventions~~  
4 ~~necessary for public schools that do not achieve adequate~~  
5 ~~yearly progress.]"~~

6 SECTION 6. Section 22-2C-4 NMSA 1978 (being Laws 2003,  
7 Chapter 153, Section 13, as amended by Laws 2007, Chapter 306,  
8 Section 1 and by Laws 2007, Chapter 307, Section 3 and also by  
9 Laws 2007, Chapter 308, Section 3) is amended to read:

10 "22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY  
11 SYSTEM--INDICATORS--REQUIRED ASSESSMENTS--ALTERNATIVE  
12 ASSESSMENTS--LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING  
13 ASSESSMENTS.--

14 A. The department shall establish a statewide  
15 assessment and accountability system that is aligned with the  
16 state academic content and performance standards [~~and that~~  
17 ~~measures adequate yearly progress for each public school and~~  
18 ~~school district. Adequate yearly progress shall be determined~~  
19 ~~primarily by student academic achievement, as demonstrated by~~  
20 ~~statewide standards-based assessments; however, the department~~  
21 ~~may include other indicators of adequate yearly progress,~~  
22 ~~including graduation rates for high schools and attendance for~~  
23 ~~elementary and middle schools].~~

24 B. The academic assessment program [~~for adequate~~  
25 ~~yearly progress]~~ shall test student achievement as follows:

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1 (1) for grades three through eight and for  
2 grade eleven, standards-based assessments in mathematics,  
3 reading and language arts [~~and social studies~~];

4 (2) for grades three through eight, a  
5 standards-based writing assessment with the writing assessment  
6 scoring criteria applied to the extended response writing  
7 portions of the language arts standards-based assessments; and

8 (3) for one of grades three through five and  
9 six through eight and for grade eleven, standards-based  
10 assessments in science by the 2007-2008 school year.

11 C. The department shall involve appropriate  
12 licensed school employees in the development of the standards-  
13 based assessments.

14 D. Before August 5 of each year, the department  
15 shall provide student scores on all standards-based assessments  
16 taken during the prior school year and required in Subsection B  
17 of this section to students' respective school districts in  
18 order to make test score data available to assist school  
19 district staff with appropriate grade-level and other placement  
20 for the current school year.

21 E. All students shall participate in the academic  
22 assessment program. The department shall adopt standards for  
23 reasonable accommodations in standards-based assessments for  
24 students with disabilities and limited English proficiency,  
25 including when and how accommodations may be applied. The

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1 legislative education study committee shall review the  
2 standards prior to adoption by the department.

3 F. Students who have been determined to be limited  
4 English proficient may be allowed to take the standards-based  
5 assessment in their primary language. A student who has  
6 attended school for three consecutive years in the United  
7 States shall participate in the English language reading  
8 assessment unless granted a waiver by the department based on  
9 criteria established by the department. An English language  
10 reading assessment waiver may be granted only for a maximum of  
11 two additional years and only on a case-by-case basis."

12 SECTION 7. Section 22-2C-5 NMSA 1978 (being Laws 2003,  
13 Chapter 153, Section 14, as amended) is amended to read:

14 "22-2C-5. [~~STUDENT ACHIEVEMENT RATINGS--CALCULATION OF~~  
15 ~~ADEQUATE YEARLY PROGRESS]~~ MEASURING AND CATEGORIZING STUDENTS'  
16 ACADEMIC PERFORMANCE.--The department shall adopt the process  
17 and methodology for [~~calculating adequate yearly progress. The~~  
18 ~~statewide standards-based assessments used to assess adequate~~  
19 ~~yearly progress shall be valid and reliable and shall conform~~  
20 ~~with nationally recognized professional and technical~~  
21 ~~standards]~~ measuring students' academic performance. Academic  
22 performance shall be [~~measured]~~ categorized by school and by  
23 the following subgroups:

- 24 A. ethnicity;
- 25 B. race;



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- 1 C. limited English proficiency;
- 2 D. students with disabilities; and
- 3 E. poverty."

4 SECTION 8. Section 22-2C-8 NMSA 1978 (being Laws 2003,  
5 Chapter 153, Section 17) is amended to read:

6 "22-2C-8. [~~ADEQUATE YEARLY PROGRESS--SUPPLEMENTAL~~  
7 ~~INCENTIVE FUNDING--STATE PROGRAM FOR OTHER ACHIEVEMENT~~] STATE  
8 IMPROVING SCHOOLS PROGRAM.--

9 [~~A. The state board shall institute an "adequate~~  
10 ~~yearly progress program" that measures public schools'~~  
11 ~~improvements in adequate yearly progress. The public schools~~  
12 ~~that show the greatest improvement in adequate yearly progress~~  
13 ~~shall be eligible for supplemental funding from the incentives~~  
14 ~~for school improvement fund, including allowable federal funds.~~

15 B.] The [~~state board~~] department may institute a  
16 "state improving schools program" that measures public school  
17 improvement [~~by adequate yearly progress and other indicators,~~  
18 ~~including~~] through school safety, dropout rate, parent and  
19 community involvement and [~~if not used to determine adequate~~  
20 ~~yearly progress~~] graduation and attendance rates. Those  
21 indicators may be weighed against socioeconomic variables such  
22 as the percentage of student mobility rates, the percentage of  
23 limited English proficient students using criteria established  
24 by the federal office of civil rights and the percentage of  
25 students eligible for free or reduced-fee lunches and other

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1 factors determined by the [~~state board~~] department. Public  
2 schools that show the greatest improvement [~~through the use of~~  
3 ~~additional indicators~~] may be eligible for supplemental funding  
4 from the incentives for school improvement fund pursuant to  
5 Section 22-2C-9 NMSA 1978. Funding for the state improving  
6 schools program [~~shall~~] may include federal funds [~~only if~~  
7 ~~allowed by~~] allowable under federal law or rule."

8 SECTION 9. Section 22-2C-9 NMSA 1978 (being Laws 2003,  
9 Chapter 153, Section 18) is amended to read:

10 "22-2C-9. INCENTIVES FOR SCHOOL IMPROVEMENT FUND--  
11 CREATED--DISTRIBUTIONS.--

12 A. The "incentives for school improvement fund" is  
13 created in the state treasury. The fund includes  
14 appropriations, federal allocations for the purposes of the  
15 fund, income from investment of the fund, gifts, grants and  
16 donations. Balances in the fund shall not revert to any other  
17 fund at the end of any fiscal year. The fund shall be  
18 administered by the department, and money in the fund is  
19 appropriated to the department to provide supplemental  
20 incentive funding for [~~the adequate yearly progress program~~  
21 ~~and~~] the state improving schools program. No more than three  
22 percent of the fund may be retained by the department for  
23 administrative purposes. Money in the fund shall be expended  
24 on warrants of the secretary of finance and administration  
25 pursuant to vouchers signed by the [~~state superintendent~~]

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1 secretary of public education or [~~his~~] the secretary's  
2 authorized representative.

3 B. The [~~state board~~] department shall adopt a  
4 formula for distributing incentive funding from the fund.  
5 [~~Distributions for the adequate yearly progress program shall~~  
6 ~~account for at least sixty percent of the fund, including~~  
7 ~~federal funds if those funds are restricted to adequate yearly~~  
8 ~~progress improvements. Up to forty percent of the fund, not~~  
9 ~~including restricted federal funds, may be used for the state~~  
10 ~~improving schools program.~~] The total number of public schools  
11 that receive supplemental funding shall not constitute more  
12 than fifteen percent of the student membership in the state.  
13 Distributions shall be made proportionately to public schools  
14 that qualify.

15 C. Each public school's school council shall  
16 determine how the supplemental funding shall be used. The  
17 money received by a public school shall not be used for  
18 salaries, salary increases or bonuses, but may be used to pay  
19 substitute teachers when teachers attend professional  
20 development activities."

21 SECTION 10. Section 22-2C-10 NMSA 1978 (being Laws 2003,  
22 Chapter 153, Section 19) is amended to read:

23 "22-2C-10. SCHOOLS IN NEED OF IMPROVEMENT FUND--  
24 CREATED.--

25 A. The "schools in need of improvement fund" is  
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1 created in the state treasury. The fund includes  
2 appropriations, federal allocations for the purposes of the  
3 fund, income from investment of the fund, gifts, grants and  
4 donations. Balances in the fund shall not revert to any other  
5 fund at the end of any fiscal year. The fund shall be  
6 administered by the department, and money in the fund is  
7 appropriated to the department to provide assistance to public  
8 schools in need of improvement [~~and public schools subject to~~  
9 ~~corrective action~~]. No more than three percent of the fund may  
10 be retained by the department for administrative purposes.  
11 Money in the fund shall be expended on warrants of the  
12 secretary of finance and administration pursuant to vouchers  
13 signed by the [~~state superintendent or his~~] secretary of public  
14 education or the secretary's authorized representative.

15 B. Distributions from the fund shall be by  
16 application approved by the department [~~based on a public~~  
17 ~~school's approved improvement plan as provided in Section~~  
18 ~~22-2C-7 NMSA 1978~~]."

19 SECTION 11. Section 22-2C-11 NMSA 1978 (being Laws 2003,  
20 Chapter 153, Section 20, as amended) is amended to read:

21 "22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM  
22 REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

23 A. The department shall:

24 (1) issue a state identification number for  
25 each public school student for use in the accountability data

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1 system;

2 (2) adopt the format for reporting individual  
3 student assessments to parents. The student assessments shall  
4 report each student's progress and academic needs as measured  
5 against state standards;

6 (3) adopt the format for reporting annual  
7 ~~[yearly]~~ progress of public schools, school districts, state-  
8 chartered charter schools and the department. A school  
9 district's report shall include reports of all locally  
10 chartered charter schools in the school district. If the  
11 department has adopted a state improving schools program, the  
12 annual accountability report shall include the results of that  
13 program for each public school. The annual accountability  
14 report format shall be clear, concise and understandable to  
15 parents and the general public. All annual accountability  
16 reports shall ensure that the privacy of individual students is  
17 protected;

18 (4) require that when public schools, school  
19 districts, state-chartered charter schools and the state  
20 disaggregate and report school data for demographic subgroups,  
21 they include data disaggregated by ethnicity, race, limited  
22 English proficiency, students with disabilities, poverty and  
23 gender; provided that ethnicity and race shall be reported  
24 using the following categories:

25 (a) Caucasian, non-Hispanic;

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- 1 (b) Hispanic;
- 2 (c) African American;
- 3 (d) American Indian or Alaska Native;
- 4 (e) Native Hawaiian or other Pacific
- 5 Islander;
- 6 (f) Asian;
- 7 (g) two or more races; and
- 8 (h) other; provided that if the sample
- 9 of students in any category enumerated in Subparagraphs (a)
- 10 through (g) of this paragraph is so small that a student in the
- 11 sample may be personally identifiable in violation of the
- 12 federal Family Educational Rights and Privacy Act of 1974, the
- 13 report may combine that sample into the "other" category;
- 14 (5) report cohort graduation data annually for
- 15 the state, for each school district and for each state-
- 16 chartered charter school and each public high school, based on
- 17 information provided by all school districts and state-
- 18 chartered charter schools according to procedures established
- 19 by the department; provided that the report shall include the
- 20 number and percentage of students in a cohort who:
- 21 (a) have graduated by August 1 of the
- 22 fourth year after entering the ninth grade;
- 23 (b) have graduated in more than four
- 24 years, but by August 1 of the fifth year after entering ninth
- 25 grade;

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1 (c) have received a state certificate by  
2 exiting the school system at the end of grade twelve without  
3 having satisfied the requirements for a high school diploma as  
4 provided in Section 22-13-1.1 NMSA 1978 or completed all course  
5 requirements but have not passed the graduation assessment or  
6 portfolio of standards-based indicators pursuant to Section  
7 22-13-1.1 NMSA 1978;

8 (d) have dropped out or whose status is  
9 unknown;

10 (e) have exited public school and  
11 indicated an intent to pursue a general educational development  
12 certificate; or

13 (f) are still enrolled in public school;

14 (6) report annually, based on data provided by  
15 school districts and state-chartered charter schools, the  
16 number and percentage of public school students in each cohort  
17 in the state in grades nine through twelve who have advanced to  
18 the next grade or graduated on schedule, who remain enrolled  
19 but have not advanced to the next grade on schedule, who have  
20 dropped out or whose other educational outcomes are known to  
21 the department; and

22 (7) establish technical criteria and  
23 procedures to define which students are included or excluded  
24 from a cohort.

25 B. Local school boards and governing boards of

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1 charter schools may establish additional indicators through  
2 which to measure the school district's or charter school's  
3 performance [~~in areas other than adequate yearly progress~~].

4 C. The school district's or state-chartered charter  
5 school's annual accountability report shall include a report of  
6 four- and five-year graduation rates for each public high  
7 school in the school district or state-chartered charter  
8 school. All annual accountability reports shall ensure that  
9 the privacy of individual students is protected. As part of  
10 the graduation rate data, the school district or state-  
11 chartered charter school shall include data showing the number  
12 and percentage of students in the cohort:

13 (1) who have received a state certificate by  
14 exiting the school system at the end of grade twelve without  
15 having satisfied the requirements for a high school diploma as  
16 provided in Section 22-13-1.1 NMSA 1978 or completed all course  
17 requirements but have not passed the graduation assessment or  
18 portfolio of standards-based indicators pursuant to Section  
19 22-13-1.1 NMSA 1978;

20 (2) who have dropped out or whose status is  
21 unknown;

22 (3) who have exited public school and  
23 indicated an intent to pursue a general educational development  
24 certificate;

25 (4) who are still enrolled; and

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1 (5) whose other educational outcomes are known  
2 to the school district.

3 D. The school district's or state-chartered charter  
4 school's annual accountability report shall include the results  
5 of a survey of parents' views of the quality of their  
6 children's school. The survey shall be conducted each year in  
7 time to include the results in the annual accountability  
8 report. The survey shall compile the results of a written  
9 questionnaire that shall be sent home with the students to be  
10 given to their parents. The survey may be completed  
11 anonymously. The survey shall be no more than one page, shall  
12 be clearly and concisely written and shall include not more  
13 than twenty questions that shall be answered with options of a  
14 simple sliding scale ranging from "strongly agree" to "strongly  
15 disagree" and shall include the optional response "don't know".  
16 The survey shall also include a request for optional written  
17 comments, which may be written on the back of the questionnaire  
18 form. The questionnaire shall include questions in the  
19 following areas:

- 20 (1) parent-teacher-school relationship and  
21 communication;
- 22 (2) quality of educational and extracurricular  
23 programs;
- 24 (3) instructional practices and techniques;
- 25 (4) resources;

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1 (5) school employees, including the school  
2 principal; and

3 (6) parents' views of teaching staff  
4 expectations for the students.

5 E. The department shall develop no more than ten of  
6 the survey questions, which shall be reviewed by the  
7 legislative education study committee prior to implementation.  
8 No more than five survey questions shall be developed by the  
9 local school board or governing body of a state-chartered  
10 charter school, and no more than five survey questions shall be  
11 developed by the staff of each public school; provided that at  
12 least one-half of those questions shall be developed by  
13 teachers rather than school administrators, in order to gather  
14 information that is specific to the particular community  
15 surveyed. The questionnaires shall indicate the public school  
16 site and shall be tabulated by the department within thirty  
17 days of receipt and shall be returned to the respective schools  
18 to be disseminated to all parents.

19 F. The school district's or state-chartered charter  
20 school's annual accountability report shall be adopted by the  
21 local school board or governing body of the state-chartered  
22 charter school, shall be published no later than November 15 of  
23 each year and shall be published at least once each school year  
24 in a newspaper of general circulation in the county where the  
25 school district or state-chartered charter school is located.

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1 In publication, the report shall be titled "The School District  
2 Report Card" or "The Charter School Report Card" and  
3 disseminated in accordance with guidelines established by the  
4 department to ensure effective communication with parents,  
5 students, educators, local policymakers and business and  
6 community organizations.

7 G. The annual accountability report shall include  
8 the names of those members of the local school board or the  
9 governing body of the charter school who failed to attend  
10 annual mandatory training.

11 H. The annual accountability report shall include  
12 data on expenditures for central office administration and  
13 expenditures for the public schools of the school district or  
14 charter school.

15 I. The department shall create an accountability  
16 data system through which data from each public school and each  
17 school district or state-chartered charter school may be  
18 compiled and reviewed. The department shall provide the  
19 resources to train school district and charter school personnel  
20 in the use of the accountability data system.

21 J. The department shall verify data submitted by  
22 the school districts and state-chartered charter schools.

23 K. At the end of fiscal year 2005, after the budget  
24 approval cycle, the department shall produce a report to the  
25 legislature that shows for all school districts using

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1 performance-based program budgeting the relationship between  
2 that portion of a school district's program cost generated by  
3 each public school in the school district and the budgeted  
4 expenditures for each public school in the school district as  
5 reported in the district's performance-based program budget.  
6 At the end of fiscal year 2006 and subsequent fiscal years,  
7 after the budget approval cycle, the department shall report on  
8 this relationship in all public schools in all school districts  
9 in the state.

10 L. When all public schools are participating in  
11 performance-based budgeting, the department shall recommend  
12 annually to the legislature for inclusion in the general  
13 appropriation act the maximum percentage of appropriations that  
14 may be expended in each school district for central office  
15 administration.

16 M. The department shall disseminate its statewide  
17 accountability report to school districts and charter schools;  
18 the governor, legislators and other policymakers; and business  
19 and economic development organizations.

20 N. As used in this section, "cohort" means a group  
21 of students who enter grade nine for the first time at the same  
22 time, plus those students who transfer into the group in later  
23 years and minus those students who leave the cohort for  
24 documented excusable reasons."

25 SECTION 12. Section 22-8E-6 NMSA 1978 (being Laws 2005,  
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1 Chapter 292, Section 6) is amended to read:

2 "22-8E-6. RENEWAL OF CHARTER.--

3 A. A charter for a charter school district may be  
4 renewed for successive periods of five years each.

5 B. Before it submits an application for renewal to  
6 the department, the local school board shall hold a public  
7 hearing to adopt a resolution approving the application for  
8 renewal.

9 C. A charter school district renewal application  
10 submitted to the department shall contain:

11 (1) a report on the progress that the charter  
12 school district has made toward achieving the goals of its  
13 charter;

14 [~~(2)~~] a list of schools in the charter school  
15 district that have made adequate yearly progress;

16 [~~(3)~~] a list of schools in the charter school  
17 district that have not made adequate yearly progress, together  
18 with an indication of the school improvement status of each of  
19 those schools;

20 [~~(4)~~] (2) a petition in support of the charter  
21 school district renewing its charter school district status  
22 signed by not less than sixty-five percent of the employees in  
23 the charter school district;

24 [~~(5)~~] (3) a resolution by the local school  
25 board requesting renewal of the charter; and

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1                   [~~(6)~~] (4) any other information that the  
2 department deems appropriate."

3                   SECTION 13. Section 22-10A-14 NMSA 1978 (being Laws 2003,  
4 Chapter 153, Section 45) is amended to read:

5                   "22-10A-14. CERTIFICATES OF WAIVER.--

6                   A. If a local superintendent or governing authority  
7 of a state agency certifies to the department that an emergency  
8 exists in the hiring of a qualified person, the department may  
9 issue a certificate of teaching waiver or assignment waiver.

10                  B. The department may issue a certificate of  
11 teaching waiver to a person who holds a baccalaureate degree  
12 but does not meet other requirements for licensure as a level  
13 one teacher. Certificates of teaching waivers are one-year  
14 waivers and may be renewed only if the holder provides  
15 satisfactory evidence of continued progress toward a level one  
16 license.

17                  C. At the request of a local superintendent, the  
18 department may issue a certificate of assignment waiver to a  
19 licensed teacher who is assigned to teach outside [~~his~~] the  
20 teacher's teaching endorsement area. A certificate of  
21 assignment waiver may be renewed each school year if the  
22 teacher provides satisfactory evidence of continued progress  
23 toward meeting the requirements for endorsement.

24                  ~~[D. A teacher who holds a teaching or assignment~~  
25 ~~waiver shall not be assigned to a school that has not made~~

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1 ~~adequate yearly progress for two consecutive years.]"~~

2 SECTION 14. Section 22-23B-6 NMSA 1978 (being Laws 2010,  
3 Chapter 108, Section 6 and Laws 2010, Chapter 114, Section 6)  
4 is amended to read:

5 "22-23B-6. STATEWIDE STATUS REPORT.--

6 A. The department, in collaboration with the higher  
7 education department, shall submit an annual preschool through  
8 post-secondary statewide Hispanic education status report no  
9 later than November 15 to the governor and the legislature  
10 through the legislative education study committee. A copy  
11 shall be provided to the legislative library in the legislative  
12 council service.

13 B. The status report shall include the following  
14 information, by school district, by charter school and  
15 statewide, which may be compiled from data otherwise required  
16 to be submitted to the department:

17 (1) Hispanic student achievement at all  
18 grades;

19 (2) attendance for all grades;

20 (3) the graduation rates for Hispanic  
21 students; and

22 [~~(4) the number of Hispanic students in~~  
23 ~~schools that make adequate yearly progress and in schools at~~  
24 ~~each level of school improvement or restructuring; and~~

25 ~~(5)] (4) the number and type of bilingual and~~

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1 multicultural programs in each school district and charter  
2 school.

3 C. The status report shall include the following  
4 information, by post-secondary educational institution, which  
5 may be compiled from data otherwise required to be submitted to  
6 the higher education department:

- 7 (1) Hispanic student enrollment;
- 8 (2) Hispanic student retention; and
- 9 (3) Hispanic student completion rates."

10 SECTION 15. REPEAL.--Sections 22-2C-7, 22-2C-7.1 and  
11 22-2C-12 NMSA 1978 (being Laws 2003, Chapter 153, Section 16,  
12 Laws 2007, Chapter 309, Section 6 and Laws 2009, Chapter 189,  
13 Section 1, as amended) are repealed.